

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CELLCO PARTNERSHIP)	
D/B/A VERIZON WIRELESS FOR ISSUANCE)	CASE NO.
OF A CERTIFICATE OF PUBLIC)	2005-00059
CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A WIRELESS)	
COMMUNICATIONS FACILITY AT KY HWY 34)	
& CHENAULT BRIDGE ROAD IN LANCASTER,)	
KENTUCKY 40444)	
IN THE WIRELESS COMMUNICATIONS)	
LICENSE AREA)	
IN THE COMMONWEALTH OF KENTUCKY)	
IN THE COUNTY OF GARRARD)	
SITE NAME: CHENAULT)	

O R D E R

This matter is before the Commission on the joint motion for rehearing per KRS 278.400 and/or confirmation of time period for construction ("Motion") filed by Cellco Partnership, a Delaware general partnership, d/b/a Verizon Wireless ("Verizon") and Mid-States Properties, LLC, a Kentucky limited liability company ("Mid-States"). There are no remaining interevenors in the case and the Motion is now ripe for review.

On July 8, 2005, the Commission granted a Certificate of Public Convenience and Necessity ("CPCN") to Verizon to construct a wireless communications facility in Garrard County, Kentucky. On May 31, 2006, Verizon and Mid-States filed a joint motion to transfer the CPCN from Verizon to Mid-States. When the motion was filed, Verizon had not yet obtained a requisite building permit and had not commenced construction of the communications facility. The Commission approved the transfer by

Order on July 6, 2006. Mid-States immediately proceeded to obtain the requisite building permit from the Garrard County Construction Department, and the permit was issued on July 13, 2006.

KRS 278.020(1) requires a CPCN to be “exercised within one year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent. . . .” Due to the timing of the motion to transfer, Mid-States was unable to obtain the requisite building permit within one year of the Commission’s issuance of the CPCN. This is the type of delay that falls squarely within the statutory exception to the one-year rule.¹ The request by Mid-States to extend the CPCN for the time needed to obtain approval of the transfer and a ruling on this pending motion is reasonable.

Based upon the record as a whole and the Commission being otherwise sufficiently advised, IT IS HEREBY ORDERED that:

1. The Motion of the Joint Applicants is granted.

¹ See e.g. PSC Case No. 2004-00053, Application of BellSouth Mobility, LLC, d/b/a Cingular Wireless - Kentucky For Issuance of a Certificate of Public Convenience and Necessity To Construct a Wireless Communications Facility at 630 Suggs Road, Carlisle, Kentucky in the Wireless Communications License Area in the Commonwealth of Kentucky in the County of Nicholas, Site Name: Blue Licks, Order dated April 26, 2005, holding that statutory time under KRS 278.020(1) does not run until the Federal Communications Commission (“FCC”) takes final action on Applicant’s request for FCC consent; and PSC Case No. 1997-00161, In The Matter of the Application of United States Cellular Operating Company (Formerly Known As Kentucky RSA #9-10, Inc.) For a Certificate of Public Convenience and Necessity To Construct a Cell Site Northeast of the Slade Interchange on the Mountain Parkway, Off Nada Tunnel Road, Near Nada Arches in Powell County, Kentucky (Slade Site), Order dated June 9, 1998, extending time in which applicant may exercise authority granted pursuant to KRS 278.020 by 90 days from the date applicant receives all required permits and approvals from applicable government agencies.

2. The period in which Mid-States is required to exercise the authority granted to it in this case is hereby extended up to and including the 60th day following July 7, 2006.

3. This case is closed and removed from the Commission's active docket.

4. This is a final and appealable Order.

Done at Frankfort, Kentucky, this 7th day of August, 2006

By the Commission

ATTEST:


Executive Director